

REMARKS

Claims 1-6 and 8-20 are pending in the application. Claims 1, 6, 13 and 18 have been amended. Applicant reserves the right to pursue the original and other claims in this and other applications.

Claims 18-20 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite. This rejection is respectfully traversed. Applicant submits that claim 18 has been amended to remove the rejected limitation “by one of continuous and stepwise expansion” from claim 18. Claims 19-20 depend from rejected claim 18. Accordingly, the rejection should be withdrawn.

Claims 1, 6, 8-13 and 15-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,797,903 to Swanson, et al. (“Swanson”). This rejection is respectfully traversed.

Independent claim 1 defines an apparatus for the interstitial coagulation of tissue and recites “a first three-dimensional treatment electrode … comprising one of an elastically stretchable and an unfoldable surface element that defines a separate interior space, that is enclosed by an auxiliary body that hydraulically separates the interior space from the surface element, to which an internal pressure can be applied to expand said surface element and thereby said treatment electrode; and a liquid-supply through which an electrically conductive liquid can be delivered to the surface element, wherein the surface element is configured to receive electrically conductive liquid from the liquid-supply.”

Applicant respectfully asserts that the Office Action misinterprets the meaning of the hydraulically separate interior space defined in the claim. Claim 1 has been amended to clarify this point, among others. Specifically, the invention, as claimed in claim 1, includes an interior space that is enclosed such that liquid or other substances cannot flow through the hydraulic barrier to the surface element.

Swanson does not disclose such limitations. Swanson only discloses a tissue ablation system with an “expandable-collapsible body 22 ... that can be altered between a collapsed geometry (FIG. 3) and an enlarged, or expanded geometry (FIG. 2).” (Swanson, col. 5, lns. 10-20; FIGs. 2-3). Swanson teaches that the expandable-collapsible body 22 is designed to facilitate “collapsed, low profile” insertion into the vasculature. (Swanson, col. 5, lns. 32-37). Swanson positions its electrode 30 within body 22, which is made of non-conductive thermoplastic or elastomeric material, supplies electrically conductive fluid to the body and the electrically conductive fluid establishes a conductive path to the tissue. Pores 44 in the body 22 enable the electrically conductive liquid to flow from the area within the body to the tissue. Nowhere does Swanson disclose that its body 22 or apparatus comprises “one of an elastically stretchable and an unfoldable surface element that defines a separate interior space, that is enclosed by an auxiliary body that hydraulically separates the interior space from the surface element, to which an internal pressure can be applied to expand said surface element and thereby said treatment electrode; and a liquid-supply through which an electrically conductive liquid can be delivered to the surface element, wherein the surface element is configured to receive electrically conductive liquid from the liquid-supply.”

As Swanson does not disclose each and every limitation of claim 1, Swanson does not anticipate claim 1. Claims 6, 8-13 and 15-16 depend from claim 1 and are allowable for at least the same reasons, as well as on their own merits. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 1, 6 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,837,885 to Koblisch, et al. (“Koblisch”). This rejection is respectfully traversed.

Koblisch does not disclose “one of an elastically stretchable and an unfoldable surface element that defines a separate interior space, that is enclosed by an auxiliary body that hydraulically separates the interior space from the surface element, to which an internal pressure can be applied to expand said surface element and thereby said treatment electrode,” as recited by claim 1. As is clearly illustrated in FIG. 4 and discussed in col. 7, Koblisch’s inflatable therapeutic element

is a single chamber filled *entirely* with electrically conductive fluid. (Koblish, FIG. 4; col. 7, lns. 1-8). No “hydraulically separate[] interior space” is illustrated or discussed.

Furthermore, Koblish suffers from the same problem discussed above with respect to Swanson—therapeutic element 14 is formed from an electrically non-conductive or semi-conductive thermoplastic or thermosetting plastic material, and micropores 28 allow the transmission of electrically conductive fluid to the tissue. (Koblish, col. 6, ln. 65-col. 7, ln. 35). Koblish’s therapeutic element 14 does not have a hydraulically separate interior space and a surface element that may receive electrically conductive liquid from a liquid-supply.

For at least these reasons, Koblish does not anticipate claim 1. Claims 6 and 14 depend from claim 1 and are allowable for at least the same reasons, as well as on their own merit. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 1, 5 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,150,745 to Stern et al. (“Stern”). This rejection is respectfully traversed.

Stern does not disclose “one of an elastically stretchable and an unfoldable surface element that defines a separate interior space, that is enclosed by an auxiliary body that hydraulically separates the interior space from the surface element, to which an internal pressure can be applied to expand said surface element and thereby said treatment electrode; and a liquid-supply through which an electrically conductive liquid can be delivered to the surface element, wherein the surface element is configured to receive electrically conductive liquid from the liquid-supply,” as recited by claim 1. As is illustrated in FIGs. 2-4, Stern’s expansion member has an array of electrodes arranged around the inflatable therapeutic element. Stern does not teach any elements that supply or are configured to receive electrically conductive fluid. No “hydraulically separate[] interior space” and separate surface element which is configured to receive electrically conductive fluid from a liquid supply element are illustrated or discussed.

For at least these reasons, Stern does not anticipate claim 1. Claims 5 and 15 depend from claim 1 and are allowable for at least the same reasons, as well as on their own merit. Accordingly, the rejection should be withdrawn and the claims allowed.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S Patent Publication 2003/0130572 to Phan et al. The rejection is respectfully traversed.

Pham does not disclose “one of an elastically stretchable and an unfoldable surface element that defines a separate interior space, that is enclosed by an auxiliary body that hydraulically separates the interior space from the surface element, to which an internal pressure can be applied to expand said surface element and thereby said treatment electrode; and a liquid-supply through which an electrically conductive liquid can be delivered to the surface element, wherein the surface element is configured to receive electrically conductive liquid from the liquid-supply,” as recited by claim 1. Pham teaches an expandable porous member having a plurality of holes through which electrically conductive fluid may flow. (Pham, FIGs. 4-6). Alternatively, Pham teaches a heat expandable electrode. (Pham, FIG. 3). Pham does not teach a “hydraulically separate[] interior space” and a separate surface element which is configured to receive electrically conductive fluid from a liquid supply element are illustrated or discussed.

For at least these reasons, Phan does not anticipate claim 1. Accordingly, the rejection should be withdrawn and the claim allowed.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Swanson. This rejection is respectfully traversed.

Claim 17 depends from claim 1, and is allowable for at least the same reasons discussed above with respect to claim 1, as well as on its own merit. Specifically, Swanson does not teach or suggest anything but a porous, non-conductive “expandable-collapsible body 22.” Accordingly, the rejection should be withdrawn and the claim allowed.

Claims 2-4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koblish, in further view of U.S. Patent No. 5,496,311 to Abele et al. (“Abele”). This rejection is respectfully traversed.

Claims 2-4 depend from claim 1 and are allowable over Koblish for at least the same reasons discussed above with respect to claim 1, as well as on their own merits. Abele, which is cited as teaching a control device, does not cure the deficiencies of Koblish. Accordingly, claims 2-4 are believed allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Swanson in further view of U.S. Patent No. 5,545,195 to Lennox. This rejection is respectfully traversed.

Claim 5 depends from claim 1, which is allowable over Swanson for at least the same reasons discussed above, as well as on its own merit. Lennox, which is cited as teaching a measurement device, does not cure the deficiencies of Swanson. Accordingly, claim 5 is believed allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claims 2-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stern, in further view of Abele. This rejection is respectfully traversed.

Claims 2-3 depend from claim 1 and are allowable over Stern for at least the same reasons discussed above with respect to claim 1, as well as on their own merits. Abele, which is cited as teaching a control device, does not cure the deficiencies of Stern. Accordingly, claims 2-3 are believed allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

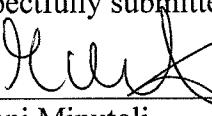
Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pham in view of Kordis. This rejection is respectfully traversed.

Claims 18-20 depend from claim 1 and are allowable over Pham for at least the same reasons discussed above with respect to claim 1, as well as on their own merits. Kordis, which is cited for expanding an electrode to various states by one of a continuous or stepwise expansion, does not cure the deficiencies of Pham. Accordingly, claims 18-20 are believed allowable over the cited combination and Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Favorable action on the merits is earnestly solicited.

Dated: October 9, 2009

Respectfully submitted,

By 
Gianni Minutoli

Registration No.: 41,198
Amanda S. Pitcher
Registration No.: 54,374
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicant